UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Richmond Division)

In re:	)	
	)	**Court File No.: 3:16-MC-1**
SUBPOENAS FOR DOCUMENTS ISSUED TO THOMSON MCMULLAN, P.C.	)	**District Judge Robert E. Payne**
	)	**Southern District of California**
	)	**Case No. 3:14-cv-00751-GPC-DHB**

SOURCEAMERICA'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO QUASH AND IN OPPOSITION TO BONA FIDE'S MOTION TO COMPEL

SourceAmerica ("SourceAmerica" or "Defendant"), defendant in the underlying litigation in the Southern District of California ("Underlying Litigation"), hereby submits this memorandum in support of its motion to quash subpoenas issued to Thompson McMullan, P.C by counsel for Bona Fide Conglomerate, Inc. ("Plaintiff" or "Bona Fide"). Bona Fide is the plaintiff in the Underlying Litigation and has filed a motion to compel Thompson McMullan, P.C. to produce documents pursuant to the subpoenas. (Doc. No. 9.) SourceAmerica also submits this memorandum in opposition to Bona Fide's motion to compel.

I. INTRODUCTION

On or about December 29, 2015, Plaintiff Bona Fide Conglomerate, Inc. served a subpoena for the production of documents upon Thompson McMullan, P.C., prior counsel for SourceAmerica's former General Counsel, Jean Robinson, in Virginia state litigation brought against her by SourceAmerica. On January 4, 2016, Plaintiff served an Amended Subpoena on Thompson McMullan. Each subpoena seeks Thompson McMullan's files from lawsuits filed by

SourceAmerica against Robinson.

SourceAmerica contends that Plaintiff's subpoenas seek the production of privileged communications; documents that are publicly available without burdening third parties; and other documents that are neither relevant to the issues in this case nor proportional to the needs of the case, as the document requests contain no appropriate subject matter limitation or date restrictions.

Bona Fide contends that Jean Robinson is a key witness in this case, and it is entitled to discovery into matters affecting her credibility, including any inducements, promises or threats included in any settlement agreement and stipulated injunction she may have entered into with SourceAmerica and the communication and negotiations that preceded them.

Pursuant to Local Civil Rule 37(E), the parties met and conferred regarding all disputed issues in connection with the subpoenas prior to filing this motion, but were unable to reach an agreement. (Declaration of Matthew P. Nugent in Support of Defendant SourceAmerica's Motion to Quash Subpoenas Issued To Thompson McMullan, P.C. ("Nugent Decl.") ¶¶10, 14-15 and Exs. C-D, H and I).

On February 12, 2016, Bona Fide filed a motion to compel Thompson McMullan, P.C. to produce documents pursuant to the subpoenas. (Doc. No. 9). This Memorandum also serves as SourceAmerica's opposition to Bona Fide's motion to compel.

II. STATEMENT OF FACTS

SourceAmerica is a designated central non-profit agency ("CNA") for the United States Ability One Program, and works to facilitate employment opportunities for persons with severe disabilities. For the past several years, Plaintiff has engaged in an attack on SourceAmerica because SourceAmerica has not recommended it for certain opportunities, rather than better suited non-profit agencies ("NPAs"). Indeed, its Chief Executive Officer, Counterdefendant

Ruben Lopez ("Lopez"), has gone so far as to conspire with a rogue, disgruntled employee, SourceAmerica's former General Counsel and Chief Compliance Officer, Jean Robinson ("Robinson") ("Robinson"), to sabotage SourceAmerica, and record his conversations with her – at times in violation of California law.

Upon learning of Robinson's conduct and after termination of her employment with SourceAmerica, SourceAmerica sued Robinson in Virginia state court, case number CL-2014-15501 (the "Virginia Matter"). (Request for Judicial Notice ("RJN"), Ex. A). The Virginia Matter asserted causes of action for legal malpractice seeking damages, legal malpractice seeking injunctive relief, breach of contract based on her employment contract with SourceAmerica, statutory conspiracy, and breach of fiduciary duty. (RJN, Ex. A, ¶¶65, 81, 90, 95, 100). In describing the alleged malpractice, the Second Amended Complaint ("SAC") in the Virginia Matter asserted causes of action for legal malpractice seeking damages, legal malpractice seeking injunctive relief, breach of contract based on her employment contract with SourceAmerica, statutory conspiracy, and breach of fiduciary duty. (RJN, Ex. A, ¶¶65, 81, 90, 95, 100). Also in describing the alleged malpractice, the SAC in the Virginia Matter alleged that Robinson met with Lopez on at least three occasions, during which she revealed to him confidential information about her client, SourceAmerica. (RJN, Ex. A, ¶15). The SAC further alleged that those unauthorized disclosures were made in violation of Robinson's fiduciary duties of confidentiality and loyalty to her employer, SourceAmerica, as well as the standard of care applicable to an attorney. (RJN, Ex. A, ¶15).

The SAC in the Virginia Matter also alleged that Robinson made further unauthorized disclosures to counsel for another NPA, PORTCO, Inc.; violated her duties regarding her handling of SourceAmerica's response to a subpoena issued by the GSA-OIG; egregiously mishandled an Equal Employment Opportunity Commission ("EEOC") charge brought by a SourceAmerica employee; and violated her employment contract by providing legal services to third parties after the start of her employment. (RJN, Ex. A, ¶26, 41, 44, 57).

On October 1, 2015, SourceAmerica again filed suit against Robinson in Virginia, case number CL-2015-13033 (the "New Matter"). (RJN, Ex. C). The New Matter includes causes of action for breach of contract seeking specific performance, breach of contract seeking damages, and detinue seeking the return of all SourceAmerica property. (RJN, Ex. C, ¶¶41, 46, 51). The complaint in the New Matter does not mention either Bona Fide or Lopez, and contains no allegations related to either party. (RJN, Ex. C).

Indeed, neither Bona Fide nor Lopez was a party to either the Virginia Matter or the New Matter. Nor does either matter have any bearing whatsoever on the allegations made by Bona Fide against SourceAmerica regarding the specific Opportunities identified in Bona Fide's amended complaint.

Despite the fact that neither Virginia case directly involved either Bona Fide or Lopez or the Opportunities at issue in Plaintiff's amended complaint, Plaintiff now seeks to obtain essentially all documents related to those matters from the law firm that represented Robinson, purportedly under the guise that they are somehow relevant to this matter – without stating how such discovery is proportional to the needs of the case. (*See* Nugent Decl., Exs. A-B).

SourceAmerica seeks to quash these subpoenas pursuant to Federal Rules of Civil Procedure Rules 26 and 45, and the Federal Rules of Evidence, Rule 404(a), on the grounds that (1) due to their overbreadth, Request Nos. 1, 2, 3, 4, and 5 purport to require the production of privileged documents; are not proportional to the needs of the case; and/or are overly broad, unduly burdensome, and oppressive; (2) Request Nos. 6 and 7 seek documents that are not in the possession of Thompson McMullan; and (3) Request No. 8 seeks documents that are publicly available without the need for a third party subpoena. The subpoenas are also procedurally defective because Plaintiff did not specify a proper place for production within 100 miles of Thompson McMullan's office as is required by Rule 45(c)(2)(A). Thompson McMullan has served timely Objections to the Subpoenas. (Nugent Decl., Ex. E).

III. LEGAL ARGUMENT

A. SourceAmerica Has Standing To Bring this Motion

As a general rule, a party has standing under Federal Rule of Civil Procedure 45(c)(3) to challenge a subpoena issued to a non-party where the party claims a personal right or privilege with respect to the documents requested in the subpoena. *Cook v. Howard*, No. 11-1601, 484 F.Appx. 805, 812 (4th Cir. Aug. 24, 2012) ("Although Rule 45(c) sets forth additional grounds on which a subpoena against a third party may be quashed, taking into consideration facts peculiar to their status as a non-party, those factors are co-extensive with the general rules governing all discovery that are set forth in Rule 26."); *Singletary v. Sterling Transp. Co.*, 289 F.R.D. 237, 239, 240 n.2 (E.D. Va. 2012) (granting plaintiff's motion to quash third-party subpoenas issued by defendant on plaintiff's former employers and noting that parties "have standing to challenge [third-party] subpoenas duces tecum as irrelevant and overbroad under Rule 26, regardless of whether they have standing to bring a motion to quash under Rule 45."); see also *Pena v. Burger King Corp.*, No. 2:12cv348-RBS-TEM, 2012 U.S. Dist. LEXIS 161492, at *4 (E.D. Va. Sept. 21, 2012) ("It is not necessary for the Court to decide whether [a party] has standing under Rule 45 in this case, as [the party] has moved for a protective order under Rule 26 and clearly has standing to bring that motion."). Nor does a party need to be the person subject to the subpoena to obtain a protective order under FRCP 26(c)(1). *See Blotzer v. L-3 Comm'n*

Corp., 287 F.R.D. 507, 509-10 (D. Ariz. 2012) (granting motion to quash and issuing protective order where defendant subpoenaed three of plaintiffs' former employers seeking personnel files of plaintiff).

B. The Subpoenas Should Be Quashed Because They Require Disclosure of Privileged and/or Confidential Documents, Seek Documents That Are Irrelevant and Not Proportional, Impose an Undue Burden, and Do Not State a Proper Place for Production

When a subpoena: 1) fails to allow a reasonable time to comply; 2) requires a person to comply beyond the geographical limits specified in Rule 45(c); 3) requires disclosure of privileged or other protected matter; or 4) subjects a person to undue burden, "the court for the district where compliance is required must quash or modify" the subpoena. Fed. R. Civ. P. 45(d)(3)(A); *Holland v. Nat'l Union Fire Ins. Co.*, No. 2:12-cv-1983 TLN AC, 2013 U.S. Dist. LEXIS 157161, *7-8 (E.D. Cal. Nov. 1, 2013). The subpoenas at issue should be quashed for each of the following reasons.

i. The Subpoenas Require Disclosure of Privileged or Other Protected Matter

Federal Rules of Civil Procedure, Rule 45(d)(3)(A)(iii), provides that a subpoena must be modified or quashed if it requires disclosure of privileged or otherwise protected material and no exception or waiver applies. *See Admiral Ins. Co. v. United States Dist. Ct.*, 881 F.2d 1486, 1492, 1495 (9th Cir. 1989) (vacating district court order to compel production responsive to subpoena duces tecum served on counsel for corporation seeking statements made by corporate employees to counsel because such statements were privileged); *Johnson v. Ford Motor Co.*, No. 3:13-cv-06529, 2015 U.S. Dist. LEXIS 119886, at *156-57 (S.D. W. Va. Sept. 3, 2015) (denying in part motion to compel documents constituting communications between employee and in-house counsel as privileged); *Medical Components Inc. v. Classic Med., Inc.*, 202 F.R.D. 175, 179 (M.D.N.C. 2002) (denying motion to compel production of documents pursuant to subpoena duces tecum served on non-party that sought privileged information and was overbroad); *Ohio Valley Envtl. Coalition, Inc. v. United States Army Corps of Eng'rs*, No. 1:11MC35, 2012 U.S. Dist. LEXIS 4123, at *11-12 (N.D. W. Va. Jan. 12, 2012) (recognizing privilege as grounds for quashing subpoena duces tecum and directing parties to file privilege log to identify potentially privileged information sought by subpoena); *Holland, supra*, 2013 U.S. Dist. LEXIS 157161 at *11 (granting in part motion to quash subpoena seeking documents and communications between attorney and client regarding discussions of settlement negotiations on the basis of privilege); *Scott v. Keller*, No. 2:07-cv-00184-KJD-PAL, 2010 U.S. Dist. LEXIS 39311, *6 (E.D. Cal. Mar. 31, 2010) (granting motion to quash subpoena seeking "every document in counsels' litigations files" from subpoenaed party's former attorney "irrespective of whether the document is privileged" because the subpoena sought privileged information, did not allow a reasonable time for compliance, commanded production more than 100 miles from place of business, and was overly broad); *Perrey v. Televisa, S.A. de C.V.*, No. CV 09-06508 FMC (RZx), 2009 U.S. Dist. LEXIS 107797, *4-5 (C.D. Cal. Nov. 18, 2009) (modifying subpoena seeking communications between attorney for plaintiff and general counsel of subpoenaed third party on the basis of privilege); *Unigene Labs., Inc. v. Apotex, Inc.*, No. C 07-80218 SI, 2007 U.S. Dist. LEXIS 78410, *11 (N.D. Cal. Oct. 10, 2007) (granting motion to quash subpoena seeking to depose defendants' former counsel who assisted in preparing a Certification Letter related to patent infringement proceedings because it "would require disclosure of information protected by attorney-client privilege.").

As explained below, the subpoenas served upon Thompson McMullan, P.C. by Plaintiff require disclosure of privileged and confidential information, and therefore must be quashed.

Indeed, as the foregoing cases illustrate, a subpoena seeking essentially all of the files from an attorney is properly quashed as seeking privileged information, even where, unlike here, those files relate to a party.

Plaintiff's subpoenas seek the production of all documents relating to the Virginia litigation, and all communications involving SourceAmerica in any way, regardless of subject matter or date. They also seek production of "Any and all written agreements between Jean Robinson and SOURCEAMERICA whereby one or both parties, in whole or in part, agreed to settle claims RELATED TO case numbers CL-2015-13033 or CL-2014-15501 filed in the Circuit Court of Fairfax County, Virginia." In addition, due to their overbreadth and based upon correspondence with Robinson's counsel, SourceAmerica believes that the subpoenas may call for production of communications related to legal advice requested by or provided to SourceAmerica, as well as attorney work-product belonging to SourceAmerica, including, but not limited to, the following:

- Correspondence with SourceAmerica's outside counsel, Anthony Anikeef, and his team at Williams Mullen concerning the ongoing PORTCO litigation;

- Correspondence with SourceAmerica's outside counsel, Venable LLP, concerning SourceAmerica's response to a subpoena issued by GSA-OIG;

- Correspondence with SourceAmerica's outside counsel, Carlos Ortiz, and his associates at LeClairRyan and/or Blank Rome, LLP, concerning SourceAmerica's response to a subpoena issued by GSA-OIG;

- Correspondence with SourceAmerica executives, employees, and members of the Board of Directors concerning their requests for legal advice related to various matters, including employment litigation and Bona Fide.

(Nugent Decl., ¶6).[1]

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[1]Contrary to Plaintiff's statements, SourceAmerica does not and has not admitted that it lacks evidence that Thompson McMullan possesses documents that contain information that is privileged as to SourceAmerica. Rather, SourceAmerica has always maintained that due to the

Due to their overbreadth, the document requests in Plaintiff's subpoenas appear to call for the production of the foregoing documents. In addition to improperly seeking production of a confidential settlement agreement, the documents may also include certain confidential or trade secret information, including information contained in meeting minutes. (Nugent Decl., ¶7). Plaintiff has not met its burden of showing that the documents are relevant to this matter. Instead, Plaintiff merely argues that communications between SourceAmerica and Thompson McMullan leading up to any settlement agreement, and any agreement itself, are relevant to Robinson's credibility. ***But the document requests themselves contain no such subject matter limitations.*** They seek all documents and communications involving SourceAmerica, regardless of subject matter. Moreover, the source of restrictions, if any, on Robinson's ability to speak about the case – as Plaintiff admits -- is the stipulated injunction entered in the Virginia matter, which is public record. Because the subpoenas seek privileged and confidential information, and are not relevant, they must be quashed pursuant to Rule 45.

ii. The Subpoenas Subject Thompson McMullan to Undue Burden

A court shall quash a subpoena if the subpoena "subjects a person to undue burden." Fed. R. Civ. P. 45(d)(3)(A)(iv); *Cook*, *supra*, 484 F.Appx. at 812 n.7 ("We further note that Rule 45(c)(3) requires courts to quash a subpoena that "subjects a person to undue burden." (45(c)(3)(A)(iv)). This ground encompasses situations where the subpoena seeks information irrelevant to the case or that would require a non-party to incur excessive expenditure of time or money."). Whether a subpoena subjects a witness to an undue burden is a question of the

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overbreadth of the document requests seeking all communications related to SourceAmerica in any way, including all e-mail communications, Thompson McMullan likely does possess such privileged documents. Plaintiff's statement that Thompson McMullan did not know if it had privileged documents is not accurate. Rather, its counsel said it had not reviewed its electronic files and could not ascertain what it had therein until that occurred – which review it would expect Plaintiff to pay for. (Nugent Decl., ¶ 10.)

subpoena's reasonableness, requiring the Court to weigh the subpoena's benefits and burdens and consider whether the information is necessary or available from another source. *See Maxtena, Inc. v. Marks*, 289 F.R.D. 427, 438 (D. Md. 2012). It is well-settled that requests to non-parties should be narrowly drawn to meet specific needs for information. *Intermec Techs. Corp. v. Palm, Inc.*, No. C 09-80098 MISC WHA, 2009 U.S. Dist. LEXIS 132759, at *7 (N.D. Cal. May 15, 2009), citing *Katz v. Batavia Marine & Sporting Supplies, Inc.*, 984 F.2d 422, 424 (Fed. Cir. 1993). A subpoena imposes an undue burden if it is overbroad. *Theofel v. Farey-Jones*, 359 F.3d 1066, 1071-72 (9th Cir. 2004) (holding that subpoena directed to internet service provider for plaintiff's company seeking all emails sent or received by the company was "patently unlawful"). Courts also consider the lack of relevance of the requested documents when determining motions to quash a subpoena. *Moon v. SCP Pool Corp.*, 232 F.R.D. 633, 637 (C.D. Cal. 2005) (citation omitted).[2]

A subpoena that "does not limit the documents requested to the subject matter relevant to the claims or defenses in [the present case]" is overbroad and imposes an undue burden on the party subpoenaed. *In re Subpoena Duces Tecum to AOL, LLC*, 550 F. Supp. 2d 606, 612 (E.D. Va. 2008). In *AOL*, agents for an insurance company discovered what they believed to be fraud in the handling of a claim by an insured, McIntosh, and reported it to law enforcement authorities, resulting in a *qui tam* action against the insurance company. *Id*. at 608. McIntosh also

[2]Specifically, an "evaluation of undue burden requires the court to weigh the burden to the subpoenaed party against the value of the information to the serving party," and requires the court to consider "such factors as relevance, the need of the party for the documents, the breadth of the document request, the time period covered by it, the particularity with which the documents are described and the burden imposed." *Id*. (citations omitted). The third party subpoena at issue in *Moon* sought all documents related to the defendant's business with a competitor of plaintiff, and the court found that the requests were overbroad on their face and exceeded "the bounds of fair discovery," noting that the requests "all pertain to defendant, who is a party, and thus, plaintiffs can more easily and inexpensively obtain the documents from defendant, rather than from [the] nonparty." *Id*. at 638.

brought suit against the insurance company, and in that suit, the insurance company issued a subpoena to AOL, requesting production of documents from the agents' email accounts pertaining to McIntosh and to claims handling practices. *Id*. The court held that the subpoena was overbroad because it did not limit the emails to "those containing subject matter relevant to the underlying action or sent to or from employees connected to the litigation," and because the emails "would likely include privileged and personal information unrelated to the *McIntosh* litigation, imposing an undue burden on [the agents]." *Id*. at 612.

Here, Plaintiff's subpoenas to Thompson McMullan are overbroad as they seek sweeping categories of pleadings, communications, agreements, documents, and discovery responses—essentially Thompson McMullan's entire case files—without sufficiently limiting the categories to subjects that are relevant to the instant case. The documents sought, including Request No. 2, have nothing to do with Ruben Lopez, Bona Fide, or any of the Opportunities at issue here, and are confidential and not subject to disclosure. Moreover, the requests for *all* communications regarding the Virginia matters and all communications involving SourceAmerica are fatally overly broad, as Plaintiff did not even attempt to tailor them to Lopez or Bona Fide – let alone any of the issues relevant to this lawsuit. Rather, what Plaintiff seeks is a fishing license – it seeks the production of essentially every document or communication in Thompson McMullan's files involving SourceAmerica ***regardless of subject matter***. Such patently overbroad requests are clearly not proportional to the needs of this case, as required by Fed. R. Civ. P. 26.

Moreover, Thompson McMullan indicated during the parties' meet and confer efforts that review and production of the requested documents would be sufficiently burdensome that it would look to Plaintiff to reimburse its attorney's fees if ordered by the Court to produce the requested documents. These subpoenas are perfect examples of what parties are **not** permitted to do – demand production of every document in a third party's possession no matter how unrelated they are to any issue in the present matter. Accordingly, the subpoenas are overbroad, impose an undue burden, and must be quashed.

iii. The Subpoenas Require Compliance Beyond the Geographical Limits of Rule 45(c)

Moreover, the subpoenas specify the place for compliance as, "Your office, or alternatively, Eckland & Blando LLP, 10 South 5th St., Ste. 800, Minneapolis, MN 55402." (Nugent Decl. ¶10, Ex. A-B). Thompson McMullan is located in Richmond, Virginia, which is well over 100 miles from Minnesota. Plaintiff has thus improperly failed to specify a proper location for compliance, and the subpoenas therefore must be quashed.

C. A Protective Order Should Issue

Pursuant to Rule 26(c), "a party or any person from whom discovery is sought may move for a protective order in the court where the action is pending." Fed. R. Civ. P. 26(c)(1). According to Rule 26(c), the Court may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including that the discovery not occur. The Court has "broad discretion" to grant relief. *Cook, supra*, 484 F.Appx. at 812 ("District courts are afforded broad discretion with discovery generally, and motions to quash subpoenas specifically."). A party is entitled to a protective order under Rule 26 (b)(1) when the information sought is irrelevant. *Montanore Minerals Corp. v. Easements & Rights of Way*, No. CV 13-133-M-DLC, 2015 U.S. Dist. LEXIS 22610, *12-13 (D. Mont. Feb. 25, 2015) (granting protective order precluding discovery on irrelevant topics in suit to condemn easements and rights of way in certain mining claims); *see also In re Applied Micro Circuits Corp. Secs. Litig.*, No. 01cv649 (AJB), 2003 U.S. Dist. LEXIS 9371, at *8 (S.D. Cal. May 21, 2003) (granting protective order where discovery requests went "far beyond seeking information relevant to" the pending case).

As discussed *supra*, Plaintiff's subpoenas seek documents that are privileged, confidential, and/or are irrelevant and not proportional to the needs of the case. Moreover, many such documents are either publicly available, or could have been sought from SourceAmerica pursuant to requests for production. Thus, the subpoenas represent an end-run around the normal discovery procedures. Indeed, on November 30, 2015, SourceAmerica filed a motion seeking to disqualify Plaintiff's attorney Daniel Cragg after he withheld SourceAmerica's privileged and confidential information contained in the surreptitious recordings made by Lopez for over a year despite SourceAmerica's repeated notifications that the recordings contained privileged and confidential information and requests that he return them. (Nugent Decl. ¶16, Ex. J). Just prior to bringing its motion, SourceAmerica learned that all of the recordings and the transcripts created at the behest of Mr. Cragg were publicly posted on WikiLeaks. (Nugent Decl. Ex. J at 12:18-27.) Consequently, the motion also sought a protective order in light of Plaintiff's counsel's clear disregard of the protections afforded privileged information and the public dissemination of SourceAmerica's privileged information. (Nugent Decl. Ex. J, pp.28-30).

The Court heard oral argument on the motion on January 25, 2016, and issued its order on February 17, 2016. (Nugent Decl. ¶17, Ex. K). The Court found that all of the information in the transcript excerpts at issue was privileged despite Robinson's unauthorized disclosure to Lopez. (Nugent Decl. Ex. K, pp.9-13). Although the Court declined to exercise its discretion to disqualify Plaintiff's counsel, SourceAmerica intends to challenge that ruling as to the appropriate remedy, and to seek disqualification or at the very least, a very strict protective order prior to producing any documents to Mr. Cragg in light of his demonstrated willingness to abuse privileged and confidential information in his possession.

In light of the fact that the subpoenas represent a clear end-run around the normal discovery process and an attempt to circumvent SourceAmerica's attempts at obtaining a protective order, the subpoenas should be quashed, or at the very least, a protective order should issue. *See Joiner v. Choicepoint Servs.*, No. 1:05CV321, 2006 U.S. Dist. LEXIS 70329, at *14 (W.D. N.C. Sept. 15, 2006) (granting motion to quash where plaintiffs' subpoena duces tecum directed at non-party employees of defendant was "merely an attempt to circumvent the established process for requesting documentation from a party opponent," which the court noted was "unthinkable."). Plaintiff's complaint that SourceAmerica has not "taken it up" on its offer to enter into a standard protective order misses the point. As SourceAmerica's motion points out, SourceAmerica has good cause to believe Plaintiff and its counsel will violate any confidentiality order entered in this litigation and improperly disclose documents and data produced in this action. For all of the foregoing reasons, a protective order should be entered that precludes production of any of the requested documents or review of those documents by Mr. Cragg pending resolution of the motion to compel.

IV. CONCLUSION

With its subpoenas, Plaintiff is clearly attempting an end-run around the discovery procedures in this case by seeking irrelevant, privileged, and confidential documents from Robinson's former attorneys in unrelated matters. The subpoenas are also defective for failure to state a proper location for production within 100 miles of Thompson McMullan, and for imposing an undue burden on Thompson McMullan with their overbreadth. For the foregoing reasons, SourceAmerica respectfully requests this Court quash the subpoenas pursuant to Federal Rule of Civil Procedure 45(d)(3)(a) and alternatively, enter a protective order.

Dated: February 23, 2016

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of SourceAmerica's Memo of Points and Authorities in Support of Motion To Quash Subpoena and in Opposition to Bona Fide's Motion to Compel has this date been served on all parties electronically by filing the same with CM/ECF, which will serve the following counsel of record:

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Respectfully submitted this 23rd day of February 2016.

/s/ Julia K. Whitlock
Julia K. Whitlock